



January 30, 2004

HOUSE BILL No. 1071

DIGEST OF HB 1071 (Updated January 27, 2004 11:12 am - DI 103)

Citations Affected: IC 10-13; IC 25-1; IC 25-21.8; noncode.

Synopsis: Massage regulation. Establishes a board of massage therapy to license massage therapists. Specifies licensure requirements. Establishes guidelines for the licensing by endorsement of a massage therapist who holds a license in another state. Establishes penalties for the unauthorized practice of massage therapy.

Effective: June 1, 2004; July 1, 2004.

Bischoff, Stevenson, Moses, Frizzell

January 20, 2004, read first time and referred to Committee on Commerce and Economic Development.
January 29, 2004, amended, reported — Do Pass.

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HB 1071—LS 6621/DI 110+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1071

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-3-37, AS ADDED BY P.L.2-2003,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115),
4 a local law enforcement agency may use fingerprints submitted for the
5 purpose of identification in a request related to the following:
6 (1) A taxicab driver's license application.
7 (2) ~~An application for a license for a massage therapist.~~
8 (3) (2) Reinstatement or renewal of a **taxicab driver's** license.
9 ~~described in subdivisions (1) and (2).~~
10 (b) An applicant shall submit the fingerprints on forms provided for
11 the license application.
12 (c) The local law enforcement agency shall charge each applicant
13 the fees set by the department and federal authorities to defray the costs
14 associated with a search for and classification of the applicant's
15 fingerprints.
16 (d) The local law enforcement agency may:
17 (1) forward for processing to the Federal Bureau of Investigation

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1 or any other agency fingerprints submitted by a license applicant;
2 and

3 (2) receive the results of all fingerprint investigations.

4 SECTION 2. IC 25-1-2-2.1, AS AMENDED BY P.L.145-2003,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2004]: Sec. 2.1. Rather than being issued annually, the
7 following permits, licenses, certificates of registration, or evidences of
8 authority granted by a state agency must be issued for a period of two
9 (2) years or for the period specified in the article under which the
10 permit, license, certificate of registration, or evidence of authority is
11 issued if the period specified in the article is longer than two (2) years:

12 (1) Certified public accountants, public accountants, and
13 accounting practitioners.

14 (2) Architects and landscape architects.

15 (3) Dry cleaners.

16 (4) Professional engineers.

17 (5) Land surveyors.

18 (6) Real estate brokers.

19 (7) Real estate agents.

20 (8) Security dealers' licenses issued by the securities
21 commissioner.

22 (9) Dental hygienists.

23 (10) Dentists.

24 (11) Veterinarians.

25 (12) Physicians.

26 (13) Chiropractors.

27 (14) Physical therapists.

28 (15) Optometrists.

29 (16) Pharmacists and assistants, drugstores or pharmacies.

30 (17) Motels and mobile home park licenses.

31 (18) Nurses.

32 (19) Podiatrists.

33 (20) Occupational therapists and occupational therapy assistants.

34 (21) Respiratory care practitioners.

35 (22) Social workers, marriage and family therapists, and mental
36 health counselors.

37 (23) Real estate appraiser licenses and certificates issued by the
38 real estate appraiser licensure and certification board.

39 (24) Wholesale legend drug distributors.

40 (25) Physician assistants.

41 (26) Dietitians.

42 (27) Hypnotists.

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- (28) Athlete agents.
- (29) Manufactured home installers.
- (30) Home inspectors.

(31) Massage therapists.

SECTION 3. IC 25-1-2-6, AS AMENDED BY P.L.145-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.

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- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) Attorney general (only for the regulation of athlete agents).
- (41) Manufactured home installer licensing board.
- (42) Home inspectors licensing board.
- (43) **State board of massage therapy.**
- (44) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 4. IC 25-1-5-3, AS AMENDED BY P.L.24-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) There is established the health professions bureau. The bureau shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).



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(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(13) Controlled substances advisory committee (IC 35-48-2-1).

(14) Committee of hearing aid dealer examiners (IC 25-20).

(15) Indiana physical therapy committee (IC 25-27).

(16) Respiratory care committee (IC 25-34.5).

(17) Occupational therapy committee (IC 25-23.5).

(18) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(19) Physician assistant committee (IC 25-27.5).

(20) Indiana athletic trainers board (IC 25-5.1-2-1).

(21) Indiana dietitians certification board (IC 25-14.5-2-1).

(22) Indiana hypnotist committee (IC 25-20.5-1-7).

(23) State board of massage therapy (IC 25-21.8-3-1).

(b) Nothing in this chapter may be construed to give the bureau policy making authority, which authority remains with each board.

SECTION 5. IC 25-1-7-1, AS AMENDED BY P.L.145-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

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- 1 (7) State board of cosmetology examiners (IC 25-8-3-1).
- 2 (8) State board of dentistry (IC 25-14-1).
- 3 (9) State board of funeral and cemetery service (IC 25-15-9).
- 4 (10) State board of registration for professional engineers
- 5 (IC 25-31-1-3).
- 6 (11) Indiana state board of health facility administrators
- 7 (IC 25-19-1).
- 8 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 9 (13) Indiana state board of nursing (IC 25-23-1).
- 10 (14) Indiana optometry board (IC 25-24).
- 11 (15) Indiana board of pharmacy (IC 25-26).
- 12 (16) Indiana plumbing commission (IC 25-28.5-1-3).
- 13 (17) Board of podiatric medicine (IC 25-29-2-1).
- 14 (18) Board of environmental health specialists (IC 25-32-1).
- 15 (19) State psychology board (IC 25-33).
- 16 (20) Speech-language pathology and audiology board
- 17 (IC 25-35.6-2).
- 18 (21) Indiana real estate commission (IC 25-34.1-2).
- 19 (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- 20 (23) Department of natural resources for purposes of licensing
- 21 water well drillers under IC 25-39-3.
- 22 (24) Respiratory care committee (IC 25-34.5).
- 23 (25) Private detectives licensing board (IC 25-30-1-5.1).
- 24 (26) Occupational therapy committee (IC 25-23.5).
- 25 (27) Social worker, marriage and family therapist, and mental
- 26 health counselor board (IC 25-23.6).
- 27 (28) Real estate appraiser licensure and certification board
- 28 (IC 25-34.1-8).
- 29 (29) State board of registration for land surveyors
- 30 (IC 25-21.5-2-1).
- 31 (30) Physician assistant committee (IC 25-27.5).
- 32 (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- 33 (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- 34 (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- 35 (34) Indiana physical therapy committee (IC 25-27).
- 36 (35) Manufactured home installer licensing board (IC 25-23.7).
- 37 (36) Home inspectors licensing board (IC 25-20.2-3-1).
- 38 (37) **State board of massage therapy (IC 25-21.8).**
- 39 **(38) Any other occupational or professional agency created after**
- 40 **June 30, 1981.**

41 SECTION 6. IC 25-1-8-1, AS AMENDED BY P.L.145-2003,
 42 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2004]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Mining board (IC 22-10-1.5-2).
- (14) Indiana state board of nursing (IC 25-23-1).
- (15) Indiana optometry board (IC 25-24).
- (16) Indiana board of pharmacy (IC 25-26).
- (17) Indiana plumbing commission (IC 25-28.5-1-3).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2-1).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
- (23) Department of insurance (IC 27-1).
- (24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
- (25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (26) Private detectives licensing board (IC 25-30-1-5.1).
- (27) Occupational therapy committee (IC 25-23.5-2-1).
- (28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
- (29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (30) State board of registration for land surveyors (IC 25-21.5-2-1).

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- (31) Physician assistant committee (IC 25-27.5).
- (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- (33) Board of podiatric medicine (IC 25-29-2-1).
- (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- (35) Indiana physical therapy committee (IC 25-27).
- (36) Manufactured home installer licensing board (IC 25-23.7).
- (37) Home inspectors licensing board (IC 25-20.2-3-1).
- (38) **State board of massage therapy (IC 25-21.8).**
- (39) Any other occupational or professional agency created after June 30, 1981.

SECTION 7. IC 25-1-9-1, AS AMENDED BY P.L.24-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (13) Indiana physical therapy committee (IC 25-27-1).
- (14) Respiratory care committee (IC 25-34.5).
- (15) Occupational therapy committee (IC 25-23.5).
- (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (17) Physician assistant committee (IC 25-27.5).
- (18) Indiana athletic trainers board (IC 25-5.1-2-1).
- (19) Indiana dietitians certification board (IC 25-14.5-2-1).
- (20) Indiana hypnotist committee (IC 25-20.5-1-7).
- (21) **State board of massage therapy (IC 25-21.8-3-1).**

SECTION 8. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 21.8. MASSAGE THERAPISTS

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Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who practices or offers to practice massage therapy.

(b) This article does not apply to the following:

(1) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or other designation set forth in IC 25-21.8-5-4(3); and

(B) engages in the practice for which the person holds a license, certification, or registration under state law, including a physician, a chiropractor, a podiatrist, or a physical therapist.

(2) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or other designation set forth in IC 25-21.8-5-4(3); and

(B) is a qualified member of a professional group and performs massage in a manner consistent with the individual's training and code of ethics of the profession, including a chiropractor, an occupational therapist, a cosmetologist, or a nurse.

(3) A massage therapy student performing massage or massage therapy in the course of the student's studies and who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or other designation set forth in IC 25-21.8-5-4(3); and

(B) does not receive or request compensation for the massage or massage therapy.

(4) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or other designation set forth in IC 25-21.8-5-4(3) and whose services are not designated or implied to be massage or massage therapy;

(B) is engaged within the scope of practice of a profession with established standards and ethics; and

(C) uses:

(i) touch, words, and direct movements to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement; or

(ii) touch that is essential for effectual palpation of the human energy system.

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(5) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or other designation set forth in IC 25-21.8-5-4(3); and

(B) treats soft tissue above the neck, below the elbow, or below the knee on a client who is not disrobed.

Chapter 2. Definitions

Sec. 1. Definitions in this chapter apply throughout this article.

Sec. 2. "Board" means the state board of massage therapy established by IC 25-21.8-3-1.

Sec. 3. "Bureau" means the health professions bureau established by IC 25-1-5-3.

Sec. 4. (a) "Massage" or "massage therapy":

(1) means the therapeutic application of massage techniques on the human body;

(2) includes:

(A) the use of touch, pressure, movement, positioning, and holding, with or without the use of massage devices that mimic or enhance manual measures; and

(B) the external application of heat, cold, water, lubricants, and abrasives; and

(3) does not include joint manipulation or spinal adjustment.

Sec. 5. "Massage therapist" means an individual who practices massage or massage therapy.

Sec. 6. "NCCA" refers to the National Commission of Certifying Agencies.

Sec. 7. "Practice of massage" or "practice of massage therapy" means:

(1) the performance of massage or massage therapy;

(2) professing to be a massage therapist; or

(3) implying in any manner to the public that an individual performs massage or massage therapy.

Sec. 8. "Professional massage and bodywork therapy association" means a state or nationally chartered organization that is devoted to the massage specialty and therapeutic approach and that meets the following requirements:

(1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.

(2) The organization has an established code of ethics and has

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1 procedures for the suspension and revocation of membership
2 of persons violating the code of ethics.

3 **Chapter 3. State Board of Massage Therapy**

4 **Sec. 1. The state board of massage therapy is established.**

5 **Sec. 2. The board consists of five (5) members appointed by the**
6 **governor as follows:**

7 (1) Three (3) massage therapists, each of whom:

8 (A) is licensed under this article; and

9 (B) has been actively practicing massage therapy for at
10 least three (3) of the five (5) years immediately preceding
11 the individual's appointment.

12 The board members appointed under this subdivision may
13 continue to practice massage or massage therapy while
14 serving on the board.

15 (2) Two (2) members of the general public. A board member
16 appointed under this subdivision must not:

17 (A) be licensed under this article;

18 (B) be the spouse of an individual licensed or who intends
19 to be licensed under this article; or

20 (C) have a direct or indirect financial interest in the
21 profession regulated under this article.

22 Only one (1) of the two (2) members appointed under this
23 subdivision may hold a license in another health care
24 profession under this title.

25 **Sec. 3. Each member of the board shall serve a term of three (3)**
26 **years and until the member's successor is appointed and qualified.**

27 **Sec. 4. (a) A vacancy in the membership of the board shall be**
28 **filled by an individual appointed by the governor for the unexpired**
29 **term.**

30 (b) A member may not serve more than two (2) consecutive
31 terms in addition to any unexpired term to which the individual
32 was appointed.

33 (c) A member of the board may be removed for cause by the
34 governor.

35 **Sec. 5. (a) Each year the board shall elect from its members the**
36 **following officers:**

37 (1) A chairperson.

38 (2) A vice chairperson.

39 (3) A secretary.

40 (b) A member serving as chairperson, vice chairperson, or
41 secretary shall serve until the member's successor as chairperson,
42 vice chairperson, or secretary is elected.

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1 **Sec. 6. The board shall meet at least two (2) times each calendar**
 2 **year upon the call of the chairperson or the written request of a**
 3 **majority of the members of the board.**

4 **Sec. 7. (a) Three (3) members of the board constitute a quorum.**

5 **(b) An affirmative vote of three (3) members of the board is**
 6 **necessary for the board to take official action.**

7 **Sec. 8. Each member of the board who is not a state employee**
 8 **is entitled to the minimum salary per diem provided by**
 9 **IC 4-10-11-2.1(b). Each member of the board is entitled to**
 10 **reimbursement for travel expenses and other expenses actually**
 11 **incurred in connection with the member's duties, as provided in the**
 12 **state policies and procedures established by the Indiana**
 13 **department of administration and approved by the budget agency.**

14 **Chapter 4. Powers and Duties of the Board**

15 **Sec. 1. The board shall do the following:**

- 16 **(1) Administer, coordinate, and enforce this article.**
- 17 **(2) Adopt rules under IC 4-22-2 for the administration and**
 18 **enforcement of this article.**
- 19 **(3) Judge the qualifications of applicants for licensing under**
 20 **this article.**
- 21 **(4) Issue, deny, renew, suspend, or revoke licenses under this**
 22 **article.**
- 23 **(5) Rescind or modify a disciplinary action taken under**
 24 **IC 25-21.8-8.**
- 25 **(6) Conduct investigations to determine whether violations of**
 26 **this article exist and constitute grounds for disciplinary action**
 27 **against licensees under this article.**
- 28 **(7) Discipline licensees for violations of this article.**
- 29 **(8) Conduct administrative hearings.**
- 30 **(9) Establish reasonable fees for examination, license**
 31 **applications, renewal of licenses, and other services.**
- 32 **(10) Maintain a record of all proceedings.**
- 33 **(11) Establish a system for grievances to be addressed and**
 34 **resolved.**
- 35 **(12) Maintain a list of licensed massage therapists.**

36 **Sec. 2. The bureau shall do the following:**

- 37 **(1) Carry out the administrative functions of the board.**
- 38 **(2) Provide necessary personnel to carry out the duties of this**
 39 **article.**
- 40 **(3) Receive and account for all fees required under this**
 41 **article.**
- 42 **(4) Deposit fees collected with the treasurer of state for**

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1 deposit in the state general fund. Expenses incurred in the
 2 administration of this article must be paid from the state
 3 general fund.

4 **Chapter 5. Issuance of License**

5 **Sec. 1. An individual may not practice or offer to practice**
 6 **massage therapy without a license issued by the board.**

7 **Sec. 2. An application for a massage therapist license must be:**

- 8 (1) made to the board on forms provided by the board; and
 9 (2) accompanied by an application fee in the amount set by
 10 the board.

11 **Sec. 3. An individual who applies for a license as a massage**
 12 **therapist must do the following:**

13 (1) Furnish evidence satisfactory to the board showing that
 14 the individual:

- 15 (A) is at least eighteen (18) years of age;
 16 (B) has a high school diploma or the equivalent;
 17 (C) has successfully completed a massage school or
 18 program that:

- 19 (i) requires at least five hundred (500) hours of
 20 supervised classroom instruction on massage therapy;
 21 (ii) is in good standing with any state, regional, or
 22 national agency of government charged with regulating
 23 massage therapy schools or programs; and
 24 (iii) is accredited by the Indiana commission on
 25 proprietary education established by IC 20-1-19-2 or
 26 accredited by another state where the standards for
 27 massage therapy education are substantially the same as
 28 the standards in Indiana; and

29 (D) has taken and passed any of the following:

- 30 (i) The National Certification Exam for Therapeutic
 31 Massage and Bodywork (NCETMB), if the exam is
 32 recognized or accredited by the NCCA.
 33 (ii) An examination created or approved by the board.
 34 (iii) An equivalent massage examination accredited by
 35 the NCCA.

36 (2) Provide a history of any criminal convictions the
 37 individual has, including any convictions related to the
 38 practice of the profession. A criminal conviction may not
 39 operate as a complete bar to a license, except for a conviction
 40 for prostitution, rape, or sexual misconduct, or if the
 41 applicant is a registered sex offender.

42 (3) Verify the information submitted on the application form.

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(4) Pay fees established by the board.

Sec. 4. An individual who is not licensed under this article may not:

- (1) profess to be a massage therapist;
- (2) practice massage or massage therapy; or
- (3) use:
 - (A) the title "Licensed Massage Therapist", "Massage Therapist", "Licensed Massage Practitioner", "Massage Practitioner", "Masseur", "Masseuse", "Myotherapist", or "Body Worker";
 - (B) the abbreviation "LMT", "MT", "LMP", or "MP"; or
 - (C) other words, initials, letters, abbreviations, or insignia indicating or implying that the individual is a massage therapist licensed under this article.

Chapter 6. Licensure by Endorsement

Sec. 1. (a) Subject to section 2 of this chapter, the board may grant a license by endorsement to an individual who:

- (1) is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as the credentialing standards specified under this article;
- (2) is in good standing with the standards of the other state or country;
- (3) pays an application fee determined by the board; and
- (4) provides a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:
 - (A) the conviction is for:
 - (i) prostitution;
 - (ii) rape; or
 - (iii) sexual misconduct; or
 - (B) the applicant is a registered sex offender.

(b) Upon receipt of an application for a license by endorsement under this chapter, the board shall contact each jurisdiction that previously credentialed the applicant to determine the applicant's current status in each jurisdiction.

Sec. 2. The board shall issue a license to an applicant if:

- (1) the applicant has been credentialed by another state within the five (5) years immediately preceding the submission of the application to the board under this chapter and the state has credentialing standards for massage therapists that are

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substantially equivalent to the credentialing standards that must be met under this article; or

(2) the applicant:

(A) holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork or another agency that meets standards set by the NCCA; and

(B) is a current member of a professional massage and bodywork therapy association;

and the applicant meets other requirements established by the board.

Chapter 7. License Renewal

Sec. 1. A license issued by the board is valid for four (4) years.

Sec. 2. (a) An individual who applies to renew a license as a massage therapist shall:

(1) file a renewal application with the board;

(2) pay a renewal fee set by the board; and

(3) provide a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) An application must include proof of current membership in a professional massage and bodywork therapy association.

Sec. 3. (a) A renewal application must be submitted to the board at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set forth in subsection (a), the board may charge the applicant a delinquent fee in an amount set by the board.

Chapter 8. Discipline and Violations

Sec. 1. (a) This section does not apply to the violation of a rule adopted by the board.

(b) A person who knowingly violates or causes a violation of this article commits a Class C misdemeanor.

Sec. 2. (a) The board shall follow the disciplinary procedures established under IC 25-1-7, IC 25-1-9-4, and IC 25-1-9-9.

(b) The board shall adopt rules under IC 4-22-2 regarding the discipline of a licensee for violations of this article.

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1 **Sec. 3. (a) A person who practices, offers to practice, or attempts**
 2 **to practice massage therapy, or who holds himself or herself out to**
 3 **the public as a person able to practice massage therapy or as a**
 4 **massage therapist without being licensed under this article, in**
 5 **addition to any other penalty provided by law, shall pay a civil**
 6 **penalty to the board in an amount not to exceed five thousand**
 7 **dollars (\$5,000) for each offense as determined by the board.**

8 **(b) The civil penalty shall be paid not later than sixty (60) days**
 9 **after the effective date of the order imposing the civil penalty. The**
 10 **order constitutes a judgment and may be filed and executed in the**
 11 **same manner as any judgment from any court of record.**

12 **Sec. 4. A person who knowingly:**

13 **(1) aids and abets another person in using a title, an**
 14 **abbreviation, or other designation set forth in**
 15 **IC 25-21.8-5-4(3) when the other person is not authorized**
 16 **under this article to use the title, abbreviation, or other**
 17 **designation; or**

18 **(2) employs another person who uses but is not authorized to**
 19 **use the regulated professional title under this article in the**
 20 **course of the other person's employment;**

21 **is liable to pay a civil penalty to the board of not more than five**
 22 **thousand dollars (\$5,000) for each offense as determined by the**
 23 **board.**

24 **Chapter 9. Preemption of Local Ordinances, Resolutions, Rules,**
 25 **and Policies**

26 **Sec. 1. Except as provided in section 2 of this chapter, this**
 27 **article supersedes any ordinances, resolutions, rules, and policies**
 28 **that have the force and effect of law adopted by a municipality or**
 29 **county relating to the licensing or registration of massage**
 30 **therapists.**

31 **Sec. 2. This article does not affect local ordinances, resolutions,**
 32 **rules, and policies that have the force and effect of law relating to:**

33 **(1) zoning requirements; or**

34 **(2) occupational license fees;**

35 **adopted by a municipality or county pertaining to massage**
 36 **therapists.**

37 **SECTION 9. [EFFECTIVE JUNE 1, 2004] (a) As used in this**
 38 **SECTION, "board" refers to the state board of massage therapy**
 39 **established by IC 25-28.1-3-1, as added by this act.**

40 **(b) The governor shall make initial appointments to the board**
 41 **not later than July 1, 2004. The initial members of the board shall**
 42 **serve for the following terms:**

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(1) The three (3) members appointed under IC 25-21.8-3-2(1), as added by this act, serve for two (2) years.

(2) The two (2) members appointed under IC 25-21.8-3-2(2), as added by this act, serve for three (3) years.

(c) An individual who does not meet the requirements of IC 25-21.8-3-2(1), as added by this act, may be appointed to the board if the individual:

(1) substantially meets the requirements of licensure under IC 25-21.8, as added by this act;

(2) currently practices massage or massage therapy in Indiana; and

(3) has practiced massage or massage therapy in Indiana after July 1, 2001, for at least three (3) consecutive years.

(d) This SECTION expires July 1, 2008.

SECTION 10. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 25-21.8-5-3, as added by this act, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, may issue a license before July 1, 2006, to an applicant who practiced massage or massage therapy in Indiana after June 30, 1999, and before July 1, 2004, if the applicant meets the condition set forth in one (1) of the following subdivisions:

(1) Provides the board with two (2) of the following:

(A) Letters of recommendation from three (3) of the following:

(i) A physician.

(ii) A massage therapy client.

(iii) A member of the clergy.

(iv) An employer that employs the applicant in the practice of massage or massage therapy.

(B) Internal Revenue Service tax return forms from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage or massage therapy.

(C) A schedule book of massage or massage therapy clients from two (2) consecutive years.

(2) Provides proof of current membership in good standing in a massage or massage therapy professional association that requires at least five hundred (500) hours of supervised classroom instruction.

(3) Provides a copy of a diploma, transcript, certificate, or other proof of completion of a massage school accredited by the Indiana commission on proprietary education established

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by IC 20-1-19-2 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana.

(b) An applicant who begins practicing massage or massage therapy in Indiana after June 30, 2004, must meet the licensing requirements set forth in IC 25-21.8, as added by this act, to be licensed in Indiana.

(c) Notwithstanding IC 25-21.8-5-3 and IC 25-21.8-6-2, both as added by this act, the board of massage therapy may issue a license to an applicant who:

(1) before March 1, 2004, enrolled in a massage therapy school or program that required at least five hundred (500) hours of supervised classroom instruction if the school was in good standing with any state, regional, or national agency of government charged with regulating massage therapy or programs; and

(2) before January 1, 2005, completes the requirements of the massage therapy school or a massage therapy program described in subdivision (1).

(d) This SECTION expires July 1, 2007.

SECTION 11. [EFFECTIVE JULY 1, 2004] (a) Before July 1, 2006, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, shall:

(1) adopt a licensing examination;

(2) approve an examination other than the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB); or

(3) approve an equivalent massage examination accredited by the National Commission of Certifying Agencies;

that an individual may use as the basis for complying with IC 25-21.8-5-3(1)(D), as added by this act.

(b) This SECTION expires December 31, 2006.

SECTION 12. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1071, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 9, line 11, after "physician," insert "**a chiropractor,**".

Page 9, line 19, after "including" insert "**a chiropractor,**".

Page 13, line 24, delete ";" and insert "**or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana;**".

Page 14, line 17, delete "and".

Page 14, line 18, delete "standard" and insert "**standards**".

Page 14, line 19, delete "." and insert ";

(3) pays an application fee determined by the board; and

(4) provides a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender."

Page 15, line 2, delete "and".

Page 15, line 3, delete "." and insert "; **and**

(3) provide a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender."

Page 17, line 20, delete "." and insert "**or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana.**".

and when so amended that said bill do pass.

(Reference is to HB 1071 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 9, nays 2.

HB 1071—LS 6621/DI 110+



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